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Please find below and/or attached an Office communication concerning this application or proceeding.

**SUPPLEMENTAL  
Office Action Summary**

Application No.

10/656,699

Applicant(s)

GRABER ET AL.

Examiner

Gay Ann Spahn

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 3 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

An Office Action supplemental to the Office Action mailed on 22 September 2005 is set forth below. The three month shortened statutory period for response has been reset to begin three months from the mailing date of the present Supplemental Office Action.

### ***Response to Arguments***

Applicant telephoned Examiner Spahn to indicate that he believed the finality of the Office Action mailed on 22 September 2005 was not necessitated by amendment for the reasons as follow:

(1) the 35 U.S.C. § 112, second paragraph, rejections on page 5, line 11 through page 6, line 14, were new rejections and were not necessitated by amendment (i.e., as being based upon new language entered by amendment, but on language that formed part of the originally disclosed claims); and

(2) the 35 U.S.C. § 103 rejection of claim 1 based upon Sinanan (U.S. Patent No. 5,852,895) in view of Reum et al. (U.S. Patent No. 4,761,923) was not necessitated by amendment because it was simply claim 2 rewritten in independent format.

Applicant's arguments have been fully considered but they are not persuasive.

First, after reconsidering the 35 U.S.C. § 112, second paragraph, rejections, the examiner does not feel that those issues rise to the level of 35 U.S.C. § 112, second

Art Unit: 3673

paragraph and therefore, the § 112, second paragraph, rejections of claims 1, 3-7, and 13 have been withdrawn.

Second, the examiner does not agree that amended claim 1 is the same as original claim 2. In the Amendment filed on 18 October 2004, original claims 1 and 2 recited as follows:

1. (Original) A landscaping channel liner apparatus comprising:
  - a longitudinally-extending trough having a longitudinally-extending floor located between opposed longitudinally-extending side walls extending therefrom, and having first and second opposed transverse open ends formed from the floor and side walls;
    - wherein each of the side walls defines a longitudinally-extending edge located opposite the longitudinally-extending floor; and
    - a longitudinally-extending receptacle located on each longitudinally-extending edge, each receptacle having first and second transverse open ends;
  - wherein each of the longitudinally-extending side walls and floor extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacles; and
  - wherein the first transverse open end of each of the longitudinally-extending receptacles faces the first transverse open end of the longitudinally-extending trough.
2. (Original) The landscaping channel liner apparatus of Claim 1, wherein the second transverse open end of each of the longitudinally-extending receptacles is essentially flush with the second transverse open end of the longitudinally-extending trough.

If claim 2 were simply put into claim 1, amended claim 1 would read as follows:

1. (Original) A landscaping channel liner apparatus comprising:
  - a longitudinally-extending trough having a longitudinally-extending floor located between opposed longitudinally-extending side walls extending therefrom, and having first and second opposed transverse open ends formed from the floor and side walls;
    - wherein each of the side walls defines a longitudinally-extending edge located opposite the longitudinally-extending floor; and

Art Unit: 3673

a longitudinally-extending receptacle located on each longitudinally-extending edge, each receptacle having first and second transverse open ends;

wherein each of the longitudinally-extending side walls and floor extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacles;

wherein the first transverse open end of each of the longitudinally-extending receptacles faces the first transverse open end of the longitudinally-extending trough; and

wherein the second transverse open end of each of the longitudinally-extending receptacles is essentially flush with the second transverse open end of the longitudinally-extending trough.

Instead, amended claim 1 in the amendment filed on 16 May 2005 reads:

1. (Currently Amended) A landscaping channel liner apparatus comprising:

a longitudinally-extending trough having a longitudinally-extending floor located between opposed longitudinally-extending sidewalls extending therefrom, and having first and second opposed transverse open ends formed from the floor and side walls;

wherein each of the side walls defines a longitudinally-extending edge located opposite the longitudinally-extending floor;

a longitudinally-extending receptacle located on each longitudinally-extending edge, each receptacle having first and second transverse open ends;

wherein each of the longitudinally-extending sidewalls and floor extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacles;

wherein the first transverse open end of one longitudinally-extending receptacle faces the second transverse open end of another longitudinally-extending receptacle; and

wherein the first transverse open end of one longitudinally-extending receptacle mates with the second transverse open end of the other longitudinally-extending receptacles, and the longitudinally-extending receptacles are essentially flush with each other.

Thus, it is clear that amended claim 1 is not just original claim 2 rewritten.

In addition, the examiner notes that the only other independent claim (i.e., claim 8) was not amended merely by adding the subject matter of canceled claim 14 because

Art Unit: 3673

only a portion of original claim 14 (i.e., the last two lines) was inserted into amended claim 8.

Therefore, since the 35 U.S.C. § 112, second paragraph, rejections have been withdrawn, the examiner believes the finality of this Office Action is proper.

### ***Drawings***

The drawings are objected to because:

(1) the "X's" in Figs. In Figs. 4 and 5 should be explained in the specification and perhaps given a reference numeral or else deleted from the drawing figures;

(2) exploded views such as Figs. 1 and 4 should have a brace (see 37 CFR 1.84(h) (1) wherein it states "Exploded views, with the separated parts embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.");

(3) the use of arrowheads at the end of the lead lines for reference numerals 6, 10, and 12 in Fig. 1, reference numerals 30 and 36 in Fig. 2, reference numerals 10 and 12 in Fig. 4, reference numerals 10 and 12 in Fig. 5, reference numerals 6, 8, 32, and 36, and reference numeral 10 in Fig. 7 is incorrect (see 37 CFR 1.84(r) wherein it states "Arrows may be used at the ends of lines, provided that their meaning is clear, as follows: (1) On a lead line, a freestanding arrow to indicate the entire section towards

Art Unit: 3673

which it points; (2) On a lead line, an arrow touching a line to indicate the surface shown by the line looking along the direction of the arrow; or (3) To show the direction of movement.”);

(4) Fig. 4, reference numerals “4”, “6”, “8”, “12”, “14”, “16”, “18”, “20”, “22”, and “24” should be changed to --4'--, --6'--, --8'--, --12'--, --14'--, --16'--, --18'--, --20'--, --22'--, and --24'--, respectively, to represent the floor, left side wall, right side wall, end, left receptacle, right receptacle, left opening of first end (10), right opening of first end (10, left opening of second end (12), and right opening of second end (12), respectively, of landscape channel liner (2');

(5) Fig. 5, reference numeral “48” should be changed to --4'-- to represent the floor of the landscape channel liner (2') and reference numerals “6”, “8”, “12”, and “14” on the right-hand side of the figure should be changed to --6'--, --8'--, --12'--, and --14'--, respectively, to represent the left side wall, right side wall, end, and receptacle, respectively, of the landscape channel liner (2'); and

(6) Fig. 6 shows arched lead lines ending arrowheads between the spike (48) and the floor (4) of the landscape channel liner (2) which appears to be trying to show an angle, but there is no symbol between the arched lead lines to indicate an angle and no discussion of such in the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

Art Unit: 3673

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

(1) page 5, lines 17-18, Fig. 1 is a partial perspective view (because of break in middle) and is also exploded view because of connectors (38) being shown as removed from ends of openings (18);

(2) unless the landscape channel liner is left open at the end when in use, Fig. 2 is a cross-sectional view (not an end view) and a line 2-2 or II-II should be shown in Fig. 1 and description should say that Fig. 2 is view when landscape channel liner (2) is placed in ground and in use by being filled with rocks (30);

(3) Fig. 3 is a partial side view;

(4) Fig. 4 is a partial exploded perspective view; and



Art Unit: 3673

(5) the three paragraphs on page 7, line 25 through page 8, line 26, which describe Figs. 4 and 5, should be amended to correctly identify the reference numerals which do not have a prime symbol after them because they are associated with the first landscape channel liner (2) and the reference numerals which do have a prime symbol after them because they are associated with the second landscape channel liner (2').

Appropriate correction is required.

### ***Claim Objections***

Claims 3 and 19 objected to because of the following informalities:

(1) claim 3 is dependent upon claim 2 which has been canceled and therefore, the dependency of claim 3 should be changed to claim 1 since the subject matter of claim 2 has been inserted into claim 1; and

(2) claim 19 is in incorrect dependent claim format and the words --The landscaping channel liner apparatus of-- should be inserted before the words "Claim 8" as the beginning of line 1 of the claim.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3673

**Claims 8, 11, 13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sinanan (U.S. Patent No. 5,852,895).**

**As to claim 8, Sinanan discloses a landscaping channel liner apparatus (see Fig. 6) comprising:**

**a longitudinally-extending trough (61) having a longitudinally-extending floor located between opposed longitudinally-extending sidewalls extending therefrom, and having first and second opposed transverse open ends formed from the floor and sidewalls;**

**wherein each of the sidewalls defines a longitudinally-extending edge located opposite the longitudinally-extending floor;**

**a receptacle (63) located on each of the longitudinally-extending edges;**

**a connector (65) engaged with the receptacle (63), extending therefrom, and spaced apart from and positioned substantially parallel to the longitudinally-extending edge; and**

**a selectively removable portion configured to receive a post.**

With respect to the broad recitation of “a selectively removable portion configured to receive a post”, the examiner notes that Sinanan has a “selectively removable portion configured to receive a post” because a hole could be cut out of the bottom of the planter in order to receive a post. Therefore, as broadly recited, Sinanan is deemed to meet this recitation.

**As to claim 11,** Sinanan discloses the landscaping channel liner apparatus of claim 8 as discussed above, and Sinanan also discloses that the floor comprises removable portions.

With respect to the broad recitation that “the floor comprises removable portions”, the examiner notes that Sinanan may have a portion removed from (such as by being cut out of) the floor. Therefore, as broadly recited, Sinanan is deemed to meet this recitation.

**As to claim 13,** Sinanan discloses the landscaping channel liner apparatus of claim 8 as discussed above, and Sinanan also discloses that the connector (65) interference fits in the receptacle (63).

The examiner notes as broadly recited, Sinanan is deemed to meet the claim language.

**As to claim 16,** Sinanan discloses the landscaping channel liner apparatus of claim 8 as discussed above, and Sinanan also discloses that the selectively removable portion is a plurality of selectively removable portions.

With respect to the broad recitation that “the selectively removable portion is a plurality of removable portions”, the examiner notes that Sinanan has a “plurality of removable portions” because at least two holes could be cut out of the bottom of the planter. Therefore, as broadly recited, Sinanan is deemed to meet this recitation.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinanan (U.S. Patent No. 5,852,895) in view of Reum et al. (U.S. Patent No. 4,761,923).**

As to claim 9, Sinanan discloses the landscaping channel liner apparatus of claim 8 as discussed above.

However, Sinanan fails to explicitly disclose that a receptacle from a second landscaping channel liner apparatus engages the connector by fitting between the longitudinally-extending edge and the connector.

Reum et al. disclose a landscape edging apparatus (11) having sidewalls which each have a receptacle (14) on longitudinally-extending edges thereof wherein a receptacle (14) from a second landscaping channel liner apparatus (11) engages the connector (12) by fitting between the longitudinally-extending edge and the connector (12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by substituting the overlapping sidewall, tubular rail (14), and connector (12) type of connection as taught by Reum et al. for the abutting sidewall, inwardly turned or rolled upper sidewall portion (63), hose-like conduit (65), and support bracket connection of

Sinanan in order for the nested sidewalls to provide greater strength and less chance of separation at abutted seams.

As to claim 10, Sinanan discloses the landscaping channel liner apparatus of claim 8 as discussed above.

However, Sinanan fails to explicitly disclose that the floor of a second landscaping channel liner apparatus overlaps a portion of the floor of the landscaping channel liner apparatus.

Reum et al. disclose a landscape edging apparatus (11) having sidewalls which each have a receptacle (14) on longitudinally-extending edges thereof wherein the receptacle on one sidewall is shorter than the length of the sidewall so that sidewalls on adjacent landscape edging apparatus (11) overlap.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by substituting the overlapping sidewall, tubular rail (14), and connector (12) type of connection as taught by Reum et al. for the abutting sidewall, inwardly turned or rolled upper sidewall portion (63), hose-like conduit (65), and support bracket connection of Sinanan in order for the nested sidewalls to provide greater strength and less chance of separation at abutted seams.

Although Sinanan in view of Reum et al. does not explicitly provide a teaching that the floor of a second landscaping channel liner apparatus would overlap a portion of the floor of the landscaping channel liner apparatus, the examiner notes that if Sinanan were modified by Reum et al. so as to have longitudinally overlapping

Art Unit: 3673

sidewalls, the floor of the landscaping channel liner apparatus of Sinanan would necessarily be overlapping in the same manner as the sidewalls.

**Claims 12, 15, and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinanan (U.S. Patent No. 5,852,895) in view of Mason, III (U.S. Patent No. 5,379,558).**

**As to claim 12, Sinanan discloses the landscaping channel liner apparatus of claim 11 as discussed above.**

However, Sinanan fails to explicitly disclose that the removable portions are perforated segments.

Mason, III (see Figs. 4-5) discloses a ground covering mat (110) for ground anchored structures (112), wherein the mat (110) has selected scored portions (118) which are deemed to constitute perforated segments.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by including selectively removable portions which are constituted by perforated segments as taught by Mason, III in order to be able to use the landscaping channel liner apparatus in a lawn or yard which has already pre-existing posts and other structure which would otherwise get in the way and prevent the laying the landscaping channel liners.

**As to claim 15, Sinanan discloses the landscaping channel liner apparatus of claim 8 as discussed above.**

However, Sinanan fails to explicitly disclose that the selectively removable portion is defined by at least one perforated seam.

Mason, III (see Figs. 4-5) discloses a ground covering mat (110) for ground anchored structures (112), wherein the mat (110) has a score line (122) which is deemed to constitute at least one perforated seam.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by including a selectively removable portion which includes a perforated seam as taught by Mason, III in order to be able to use the landscaping channel liner apparatus in a lawn or yard which has already pre-existing posts and other structure which would otherwise get in the way and prevent the laying the landscaping channel liners.

**As to claim 17,** Sinanan discloses the landscaping channel liner apparatus of claim 16 as discussed above.

However, Sinanan fails to explicitly disclose that the plurality of selectively removable portions are each defined by at least one perforated seam.

Mason, III (see Figs. 4-5) discloses a ground covering mat (110) for ground anchored structures (112), wherein the mat (110) has selected scored portions (118) and a score line (122) which are deemed to constitute a plurality of selectively removable portions which are each defined by at least one perforated seam (i.e., the score line (122)).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by

Art Unit: 3673

including selectively removable portions which are constituted by perforated segments and a perforated seam as taught by Mason, III in order to be able to use the landscaping channel liner apparatus in a lawn or yard which has already pre-existing posts and other structure which would otherwise get in the way and prevent the laying the landscaping channel liners.

**As to claim 18,** Sinanan discloses the landscaping channel liner apparatus of claim 16 as discussed above.

However, Sinanan fails to explicitly disclose that the plurality of selectively removable portions share a common perforated seam.

Mason, III (see Figs. 4-5) discloses a ground covering mat (110) for ground anchored structures (112), wherein the mat (110) has selected scored portions (118) and a scored line (122) which are deemed to constitute perforated segments and a common perforated seam.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by including selectively removable portions which are constituted by perforated segments and a common perforated seam as taught by Mason, III in order to be able to use the landscaping channel liner apparatus in a lawn or yard which has already pre-existing posts and other structure which would otherwise get in the way and prevent the laying the landscaping channel liners.

**As to claim 19,** Sinanan discloses the landscaping channel liner apparatus of claim 8 as discussed above.



However, Sinanan fails to explicitly disclose that the selectively removable portion comprises a seam extending therefrom to the periphery of the longitudinally-extending floor.

Mason, III (see Figs. 4-5) discloses a ground covering mat (110) for ground anchored structures (112), wherein the mat (110) has selected scored portions (118) and a scored line (122) which are deemed to constitute the selectively removable portions and seam. The score line or seam (122) of Mason, III extends from the selectively removable portions or scored segments (118) to the periphery of the longitudinally-extending floor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan by including selectively removable portions which are constituted by perforated segments and a perforated seam as taught by Mason, III in order to be able to use the landscaping channel liner apparatus in a lawn or yard which has already pre-existing posts and other structure which would otherwise get in the way and prevent the laying the landscaping channel liners.

**Claims 1, 3-5, and 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Sinanan (U.S. Patent No. 5,852,895) in view of Reum et al. (U.S. Patent No. 4,761,923).**

As to claim 1, Sinanan discloses a landscaping channel liner apparatus (see Fig. 6) comprising:

a longitudinally-extending trough (61) having a longitudinally-extending floor located between opposed longitudinally-extending sidewalls extending therefrom, and having first and second opposed transverse open ends formed from the floor and sidewalls;

wherein each of the sidewalls defines a longitudinally-extending edge located opposite the longitudinally-extending floor;

a longitudinally-extending receptacle (63) located on each longitudinally-extending edge, each receptacle (63) having first and second transverse open ends;

wherein the first transverse open end of the longitudinally-extending receptacle (63) faces the second transverse open end of another longitudinally-extending receptacle (63); and

wherein the first transverse open end of one longitudinally-extending receptacle (63) mates with the second transverse open end of the other longitudinally-extending receptacles (63), and the longitudinally-extending receptacles are essentially flush with each other.

Sinanan fails to explicitly disclose that each of the longitudinally-extending sidewalls and floor extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacles.

Reum et al. discloses a landscape edging apparatus (11) having sidewalls which each have a receptacle (14) on longitudinally-extending edges thereof wherein each of the longitudinally-extending sidewalls extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacles (see Fig. 1).

It would have been obvious to one of ordinary skill in the art to modify the landscaping channel liner apparatus of Sinanan by substituting the overlapping sidewall, tubular rail (14), and connector (12) type of connection as taught by Reum et al. for the abutting sidewall, inwardly turned or rolled upper sidewall portion (63), hose-like conduit (65), and support bracket connection of Sinanan in order for the nested sidewalls to provide greater strength and less chance of separation at abutted seams.

The examiner notes that Reum et al. do not explicitly provide a teaching that the floor of Sinanan would extend longitudinally beyond the first transverse open end of each of the longitudinally-extending receptacle. However, if Sinanan were modified by Reum et al. so as to have longitudinally overlapping sidewalls, the floor of the landscaping channel liner apparatus of Sinanan would necessarily be overlapping in the same manner as the sidewalls.

**As to claim 3,** Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of claim 1 as discussed above, and Sinanan in view of Reum et al. also discloses first and second connectors, wherein the first connector is partially fitted in the first transverse open end of the first longitudinally-extending receptacle and wherein the second connector is partially fitted in the other of the longitudinally-extending receptacles through its first transverse open end.

**As to claim 4,** Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of claim 3 as discussed above, and Sinanan in view of Reum et al. also discloses that a portion of the first connector extends from the first transverse open end of one of the longitudinally-extending receptacles and is fitted into the second

Art Unit: 3673

transverse open end of one of the longitudinally-extending receptacles of a second landscaping channel liner apparatus, and wherein a portion of the second connector extends from the first transverse open end of the other of the longitudinally-extending receptacles and is fitted into the other second transverse open end of the other of the longitudinally-extending receptacles of the second landscaping channel liner apparatus.

**As to claim 5,** Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of claim 4 as discussed above, and Sinanan in view of Reum et al. also discloses the second transverse open end of the second landscaping channel liner apparatus is at least partially encompassed by a portion of the landscaping channel liner apparatus at the first transverse open end.

**As to claim 7,** Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of claim 3 as discussed above, and Sinanan in view of Reum et al. also discloses that the first and second connector's interference fit in their respective longitudinally-extending receptacles.

**Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinanan (U.S. Patent No. 5,852,895) in view of Reum et al. (U.S. Patent No. 4,761,923), as applied to claims 1, 3, and 4 above, and further in view of Thomas (5,315,780).**

**As to claim 6,** Sinanan in view of Reum et al. discloses the landscaping channel liner apparatus of claim 4 as discussed above.

However, Sinanan in view of Reum et al. fail to explicitly disclose spikes that extend from at least one of the sidewalls.

Thomas discloses a lawn edging material anchoring arrangement wherein a landscape edging device has spikes (see Fig. 2) extending from at least one of the sidewalls.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the landscaping channel liner apparatus of Sinanan in view of Reum et al. to include spikes through the sidewall as taught by Thomas in order to provide surer anchoring of the channel liner apparatus to the ground.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3-13, and 15-19 have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3673

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,377,477 to Fritch discloses a landscape edging apparatus and method for containing gravel (see Fig. 3). U.S. Patent No. 6,202,358 to Janesky discloses a rain chute which is embedded in the ground (see Fig. 2). U.S. Patent No. 6,379,078 discloses a method and apparatus for providing an edging structure. U.S. Patent Nos. 5,640,801 to Rynberk, 4,863,307 to Jones, and 6,625,925 to Foster disclose landscape edgers anchored by spikes. U.S. Patent Nos. 6,446,400 to Block et al., 5,522,176 to Suttle, 6,705,044 to Clancey, 5,323,557 to Sonntag, 5,389,116 to Byrd, 5,285,594 to Penny, and 5,509,231 to Marcoux all disclose various structure and ways for placing ground covering around posts or other obstacles.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

Art Unit: 3673

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

<sup>GAS</sup>  
Gay Ann Spahn, Patent Examiner  
October 3, 2005



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